

1 MARK E. McKEEN (S.B.#130950)
2 THOMAS A. COUNTS (S.B.#148051)
3 RICHARD E. ELDER (S.B. #205389)
4 PAUL, HASTINGS, JANOFSKY &
5 WALKER LLP
55 Second Street, 24th Floor
San Francisco, CA 94105-3441
Telephone: (415) 856-7000
Facsimile: 415) 856-7100

6 Attorneys for Plaintiff Align Technology, Inc.

7 GEORGE A. RILEY (S.B. #118304)
8 DARIN W. SNYDER (S.B. #136003)
9 PAT W. COSTELLO (S.B. #218591)
O'MELVENY & MYERS LLP
Embarcadero Center West
10 275 Battery Street
San Francisco, CA 94111-3305
11 Telephone: (415) 984-8700
Facsimile: (415) 984-8701

12 Attorneys for Defendants OrthoClear, Inc. and OrthoClear
13 Holdings, Inc.

14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17
18 ALIGN TECHNOLOGY, INC.,

CASE NO. CV-05-2948 MMC (JCS)

19 Plaintiff,

**STIPULATION AND ORDER
REGARDING PLAINTIFF ALIGN
TECHNOLOGY, INC.'S MOTION TO
COMPEL FURTHER RESPONSES TO
REQUESTS FOR PRODUCTION AND
INTERROGATORIES**

20 vs.

21 ORTHOCLEAR, INC. and
ORTHOCLEAR HOLDINGS, INC.,

22 Defendants.

23

24

25

26

27

28

CASE NO. CV-05-2948 MMC (JCS)

STIPULATION AND ORDER REGARDING ALIGN'S
MOTION TO COMPEL FURTHER RESPONSES
TO REQUESTS FOR PRODUCTION AND INTERROGATORIES

Whereas, on March 17, 2006, Plaintiff, Align Technology, Inc. ("Align") filed a motion to compel further responses from Defendants OrthoClear, Inc. and OrthoClear Holdings, Inc. to interrogatories and requests for production of documents propounded by Align;

Whereas, the parties have extensively met and conferred to resolve their disagreements without intervention by the Court and have reached agreements as to the majority of those disagreements;

Therefore, it is hereby ordered that:

1. OrthoClear, Inc. will supplement its responses to Align's October 21, 2005 Interrogatory ("October Interrogatories") No. 3 to provide documents sufficient to identify the requested information, and to Align's January 23, 2006 Interrogatories ("January Interrogatories") Nos. 2 and 8.

2. OrthoClear Holdings will supplement its responses to January Interrogatories Nos. 2, 4, 7-10, 12-15, 18 and 19.

3. OrthoClear Inc. will produce all documents responsive to Align's October 21, 2005 Requests for Production ("October Requests") Nos. 11, 12, 46, 47 and Align's January 23, 2005 Requests for Production ("January Requests") Nos. 6-8, 26-28, 42, 44 and 47.

4. OrthoClear Holdings will produce all documents responsive to January Requests for Production Nos. 6-8, 26-28, 42, 44, 47

5. In response October Requests for Production Nos. 7, 8, 9 and 10 OrthoClear will produce documents that refer to statements alleged in the Complaint and photographs contained on Defendants' website, www.OrthoClear.com, including the source of such statements and photographs. OrthoClear will produce the original and current versions of Defendants' website, www.OrthoClear.com. OrthoClear will produce documents sufficient to identify the designer of Defendants' web site, www.OrthoClear.com.

6. In response to January Request for Production No. 19 (to both Defendants) OrthoClear will produce stock offering documents and documents any OrthoClear entity gave,

1 delivered or caused or allowed to be given or delivered to any prospective investor or stock
2 purchaser regarding the relationship between Defendants, overlapping employees of Defendants,
3 and any agreements between Defendants.

4 7. In response to October Requests for Production Nos. 48-49 OrthoClear,
5 Inc. will provide complete, correct copies of the financial documents it has produced to date.

6 8. In response to January Requests for Production Nos. 11 – 14 (to both
7 Defendants) OrthoClear will produce responsive bank statements and checks.

8 9. In response to January Request for Production No. 23 (to both Defendants)
9 OrthoClear will produce documents sufficient to identify all information regarding rent or lease
10 payments made by OrthoClear, Inc. and OrthoClear Holdings, Inc.

12 10. In response to January Requests for Production No. 24 and 26 (to both
13 Defendants) OrthoClear will provide documents sufficient to identify all information regarding
14 rent or lease payments made by OrthoClear, Inc. and OrthoClear Holdings, Inc. for property
15 located at 580 California St. and 2677 Larkin St. San Francisco.

16 11. In response to January Requests for Production Nos. 29, 30, 36, 37, 38 and
17 43 (to both Defendants) OrthoClear will produce documents sufficient to identify all information
18 regarding relevant payments made by OrthoClear, Inc. and OrthoClear Holdings, Inc.

19
20
21
22
23
24
25
26
27
28

1 12. In response to October Request for Production No. 54, OrthoClear will
2 produce all documents relating to agreements between Defendants, the relationship between
3 Defendants, and directions given by one Defendant to the other.

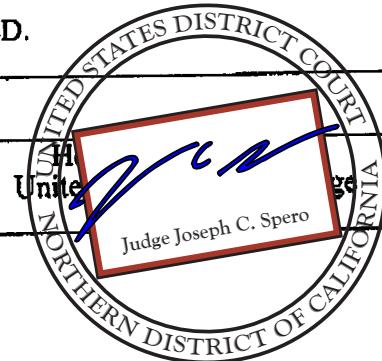
4 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
5

DATED: <u>3/24/06</u>	<u>Mark E. McKee</u> Attorneys for Plaintiff
DATED: <u>3/24/06</u>	<u>Paul S. Miller</u> Attorneys for Defendant

10 PURSUANT TO STIPULATION, IT IS SO ORDERED.
11

DATED: <u>March 27, 2006</u>	
------------------------------	--

14 LEGAL_US_W # 53392627.1
15



28 CASE NO. CV-05-2948 MMC (JCS)

STIPULATION AND ORDER REGARDING ALIGN'S
MOTION TO COMPEL FURTHER RESPONSES
TO REQUESTS FOR PRODUCTION AND INTERROGATORIES